

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DARYL KLUMP,

Plaintiff,

Civil Case No. 14-12428  
Honorable Linda V. Parker

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

\_\_\_\_\_ /

**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE’S APRIL  
26, 2016 REPORT AND RECOMMENDATION [ECF NO. 23]; (2)  
GRANTING IN PART PLAINTIFF’S MOTION FOR SUMMARY  
JUDGMENT [ECF NO. 9]; (3) DENYING DEFENDANT’S MOTION FOR  
SUMMARY JUDGMENT [ECF NO. 11]; AND (4) REMANDING FOR  
FURTHER PROCEEDINGS**

On December 1, 2014, Plaintiff filed this lawsuit challenging the Commissioner of Social Security’s (“Commissioner’s”) final decision denying Plaintiff’s application for disability and disability insurance benefits under the Social Security Act. On June 23, 2014, this Court referred the matter to Magistrate Judge David R. Grand for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. §636(b)(1)(A) and/or a report and recommendation (“R&R”) on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 2.) The parties subsequently filed cross-motions for summary judgment. (ECF Nos. 9, 11.) On January 12, 2015, the

matter was reassigned for all pretrial proceedings to Magistrate Elizabeth A. Stafford. On April 26, 2016, Magistrate Judge Stafford issued her R&R recommending that this Court grant Plaintiff's motion, deny the Commissioner's motion, and remand the matter pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings. (ECF No. 23.)

In her R&R, Magistrate Judge Stafford concludes that the Administrative Law Judge erred at step three in failing to obtain a medical opinion on the issue of equivalency relating to Klump's physical impairments, and that the lack of a medical opinion also renders the ALJ's residual functional capacity (RFC) assessment unsupported by substantial evidence. (*Id.* at Pg. ID 689–90, 693.) Magistrate Judge Stafford therefore concludes that the matter must be remanded to the Commissioner. (*Id.* at Pg. ID 696.)

At the conclusion of the R&R, Magistrate Judge Stafford advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.*) She further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.*, citing *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Stafford. The Court therefore adopts Magistrate Judge Stafford's April 26, 2016 R&R.

Accordingly,

**IT IS ORDERED**, that Plaintiff's motion for summary judgment (ECF No. 9) is **GRANTED IN PART**;

**IT IS FURTHER ORDERED**, that Defendant's motion for summary judgment (ECF No. 11) is **DENIED**;

**IT IS FURTHER ORDERED**, that this matter is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the R&R.

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: May 24, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, May 24, 2016, by electronic and/or U.S. First Class mail.

s/ Richard Loury  
Case Manager